

class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

(Added Pub. L. 98-473, title II, §1205(a), Oct. 12, 1984, 98 Stat. 2152; amended Pub. L. 100-690, title VII, §7077, Nov. 18, 1988, 102 Stat. 4406; Pub. L. 101-647, title XXV, §2521(b)(2), title XXXV, §3542, Nov. 29, 1990, 104 Stat. 4865, 4925; Pub. L. 103-322, title XXXIII, §330011(k), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 104-191, title II, §247, Aug. 21, 1996, 110 Stat. 2018.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subsec. (b), are set out in the Appendix to this title.

AMENDMENTS

1996—Subsec. (a)(1)(C). Pub. L. 104-191, §247(a), added subpar. (C).

Subsec. (a)(2). Pub. L. 104-191, §247(b), inserted “or a Federal health care offense” after “title”.

1994—Pub. L. 103-322, §330011(k), repealed Pub. L. 101-647, §3542. See 1990 Amendment note below.

1990—Pub. L. 101-647, §2521(b)(2), added subsec. (a), inserted subsec. (b) designation, and struck out former first sentence which read as follows: “Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a violation of this chapter, or of section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such violation.”

Pub. L. 101-647, §3542, which directed insertion of a comma after “of this title”, was repealed by Pub. L. 103-322, §330011(k).

1988—Pub. L. 100-690 inserted “or of section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title” after “violation of this chapter.”.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330011(k) of Pub. L. 103-322 provided that the amendment made by that section is effective Nov. 29, 1990.

§ 1346. Definition of “scheme or artifice to defraud”

For the purposes of this chapter, the term “scheme or artifice to defraud” includes a scheme or artifice to deprive another of the intangible right of honest services.

(Added Pub. L. 100-690, title VII, §7603(a), Nov. 18, 1988, 102 Stat. 4508.)

§ 1347. Health care fraud

Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

(1) to defraud any health care benefit program; or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

(Added Pub. L. 104-191, title II, §242(a)(1), Aug. 21, 1996, 110 Stat. 2016.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24 of this title.

CHAPTER 65—MALICIOUS MISCHIEF

Sec.	
1361.	Government property or contracts.
1362.	Communication lines, stations or systems.
1363.	Buildings or property within special maritime and territorial jurisdiction.
1364.	Interference with foreign commerce by violence.
1365.	Tampering with consumer products.
1366.	Destruction of an energy facility.
1367.	Interference with the operation of a satellite.

AMENDMENTS

1990—Pub. L. 101-647, title XXXV, §3543, Nov. 29, 1990, 104 Stat. 4926, inserted a period after “1366”.

1986—Pub. L. 99-646, §29(b), Nov. 10, 1986, 100 Stat. 3598, redesignated item 1365, relating to destruction of an energy facility, as item 1366.

Pub. L. 99-508, title III, §303(b), Oct. 21, 1986, 100 Stat. 1873, added item 1367.

1984—Section 1365(d) of this title as added by Pub. L. 98-473, title II, §1011(a), Oct. 12, 1984, 98 Stat. 2141, added item 1365, relating to destruction of an energy facility.

1983—Pub. L. 98-127, §3, Oct. 13, 1983, 97 Stat. 832, added item 1365, relating to tampering with consumer products.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2516 of this title.

§ 1361. Government property or contracts

Whoever willfully injures or commits any depredation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof, or attempts to commit any of the foregoing offenses, shall be punished as follows:

If the damage or attempted damage to such property exceeds the sum of \$1,000, by a fine under this title or imprisonment for not more than ten years, or both; if the damage or attempted damage to such property does not exceed the sum of \$1,000, by a fine under this title or by imprisonment for not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 764; Pub. L. 103-322, title XXXII, §320903(d)(1), title XXXIII, §330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 2125, 2147; Pub. L. 104-294, title VI, §§601(a)(3), 605(e), 606(a), Oct. 11, 1996, 110 Stat. 3498, 3510, 3511.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §82 (Mar. 4, 1909, ch. 321, §35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015;

June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

The embezzlement and theft provisions of section 82 of title 18, U.S.C., 1940 ed., are now incorporated in section 641 of this title.

Words “or any corporation in which the United States of America is a stockholder” were omitted as unnecessary in view of definition of “agency” in section 6 of this title.

Designation of the place of confinement as “in a jail” was omitted because section 4082 of this title commits all prisoners to the custody of the Attorney General or his authorized representative, who shall designate the place of confinement. (See reviser’s note under section 1 of this title.)

The smaller penalty for offenses involving \$50 or less was extended to offenses involving \$100 or less. The use of \$50 as the dividing line between felonies and misdemeanors originated at a time when that sum was of much greater value than \$100 is now.

The word “damage” was substituted twice for the word “value”, and the definition of “value” was omitted as inapplicable to this section. These words and definition, however, are retained in that part of said section 82 which is now section 641 of this title.

Minor changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104-294, §605(e), inserted comma after “foregoing offenses” in first par.

Pub. L. 104-294, §§601(a)(3), 606(a), in second par., substituted “fine under this title” for “fine of under this title” in two places and “\$1,000” for “\$100” in two places.

1994—Pub. L. 103-322, §320903(d)(1)(A), inserted “or attempts to commit any of the foregoing offenses” before “shall be punished” in first par.

Pub. L. 103-322, §330016(1)(H), (L), in second par., substituted “under this title” for “not more than \$10,000” before “or imprisonment for not more than ten years” and for “not more than \$1,000” before “or by imprisonment for not more than one year”.

Pub. L. 103-322, §320903(d)(1)(B), inserted “or attempted damage” after “damage” in two places in second par.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1956, 2332b, 2339A, 3050, 3286 of this title.

§ 1362. Communication lines, stations or systems

Whoever willfully or maliciously injures or destroys or attempts willfully or maliciously to injure or destroy any of the works, property, or material of any radio, telegraph, telephone or cable, line, station, or system, or other means of communication, operated or controlled by the United States, or used or intended to be used for military or civil defense functions of the United States, whether constructed or in process of construction, or willfully or maliciously interferes in any way with the working or use of any such line, or system, or willfully or maliciously obstructs, hinders, or delays the transmission of any communication over any such line, or system, shall be fined under this title or imprisoned not more than ten years, or both.

In the case of any works, property, or material, not operated or controlled by the United States, this section shall not apply to any lawful strike activity, or other lawful concerted activities for the purposes of collective bargaining or other mutual aid and protection which do not injure or destroy any line or system used or intended to be used for the military or civil defense functions of the United States.

(June 25, 1948, ch. 645, 62 Stat. 764; Pub. L. 87-306, Sept. 26, 1961, 75 Stat. 669; Pub. L. 103-322, title XXXII, §320903(d)(2), title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2125, 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §116 (Mar. 4, 1909, ch. 321, §60, 35 Stat. 1099).

This section was extended to include radio and radio stations. Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322, in first par., inserted “or attempts willfully or maliciously to injure or destroy” after “willfully or maliciously injures or destroys” and substituted “fined under this title” for “fined not more than \$10,000”.

1961—Pub. L. 87-306 extended the provisions of the section to means of communication used or intended to be used for military or civil defense functions of the United States, made the provisions inapplicable to lawful strike activities, which do not injure any line or system used for such functions, and increased the punishment by fine from \$1,000 to \$10,000 and by imprisonment from 3 to 10 years.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2332b, 2339A of this title.

§ 1363. Buildings or property within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously destroys or injures or attempts to destroy or injure any structure, conveyance, or other real or personal property, shall be fined under this title or imprisoned not more than five years, or both, and if the building be a dwelling, or the life of any person be placed in jeopardy, shall be fined under this title or imprisoned not more than twenty years, or both.

(June 25, 1948, ch. 645, 62 Stat. 764; Pub. L. 103-322, title XXXIII, §330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-132, title VII, §703, Apr. 24, 1996, 110 Stat. 1294.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§464, 465 (Mar. 4, 1909, ch. 321, §§285, 286, 35 Stat. 1144).

Said sections were consolidated and rewritten both as to form and substance. The provisions relating to arson are incorporated in section 81 of this title. (See reviser’s note under said section 81 of this title for explanation of changes.)

AMENDMENTS

1996—Pub. L. 104-132 substituted “any structure, conveyance, or other real or personal property” for “any building, structure or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping”.

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000” after “shipping, shall be” and for “fined not more than \$5,000” after “jeopardy, shall be”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1956, 2332b, 2339A, 3050 of this title.

§ 1364. Interference with foreign commerce by violence

Whoever, with intent to prevent, interfere with, or obstruct or attempt to prevent, inter-

fere with, or obstruct the exportation to foreign countries of articles from the United States, injures or destroys, by fire or explosives, such articles or the places where they may be while in such foreign commerce, shall be fined under this title or imprisoned not more than twenty years, or both.

(June 25, 1948, ch. 645, 62 Stat. 764; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 381 (June 15, 1917, ch. 30, titles IV, XIII, § 1, 40 Stat. 221, 231; Mar. 28, 1940, ch. 72, § 4, 54 Stat. 79).

Mandatory punishment provisions were rephrased in the alternative.

Definition of the term "United States" was omitted and incorporated in section 5 of this title.

Minor verbal changes were made.

AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$10,000".

CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

CROSS REFERENCES

Destruction of property moving in commerce, see section 80501 of Title 49, Transportation.

Jurisdiction of offenses, see section 3241 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title.

§ 1365. Tampering with consumer products

(a) Whoever, with reckless disregard for the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk, tampers with any consumer product that affects interstate or foreign commerce, or the labeling of, or container for, any such product, or attempts to do so, shall—

(1) in the case of an attempt, be fined under this title or imprisoned not more than ten years, or both;

(2) if death of an individual results, be fined under this title or imprisoned for any term of years or for life, or both;

(3) if serious bodily injury to any individual results, be fined under this title or imprisoned not more than twenty years, or both; and

(4) in any other case, be fined under this title or imprisoned not more than ten years, or both.

(b) Whoever, with intent to cause serious injury to the business of any person, taints any consumer product or renders materially false or misleading the labeling of, or container for, a consumer product, if such consumer product affects interstate or foreign commerce, shall be fined under this title or imprisoned not more than three years, or both.

(c)(1) Whoever knowingly communicates false information that a consumer product has been tainted, if such product or the results of such communication affect interstate or foreign commerce, and if such tainting, had it occurred, would create a risk of death or bodily injury to

another person, shall be fined under this title or imprisoned not more than five years, or both.

(2) As used in paragraph (1) of this subsection, the term "communicates false information" means communicates information that is false and that the communicator knows is false, under circumstances in which the information may reasonably be expected to be believed.

(d) Whoever knowingly threatens, under circumstances in which the threat may reasonably be expected to be believed, that conduct that, if it occurred, would violate subsection (a) of this section will occur, shall be fined under this title or imprisoned not more than five years, or both.

(e) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties intentionally engages in any conduct in furtherance of such offense, shall be fined under this title or imprisoned not more than ten years, or both.

(f) In addition to any other agency which has authority to investigate violations of this section, the Food and Drug Administration and the Department of Agriculture, respectively, have authority to investigate violations of this section involving a consumer product that is regulated by a provision of law such Administration or Department, as the case may be, administers.

(g) As used in this section—

(1) the term "consumer product" means—

(A) any "food", "drug", "device", or "cosmetic", as those terms are respectively defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); or

(B) any article, product, or commodity which is customarily produced or distributed for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which is designed to be consumed or expended in the course of such consumption or use;

(2) the term "labeling" has the meaning given such term in section 201(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(m));

(3) the term "serious bodily injury" means bodily injury which involves—

(A) a substantial risk of death;

(B) extreme physical pain;

(C) protracted and obvious disfigurement; or

(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

(4) the term "bodily injury" means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of the function of a bodily member, organ, or mental faculty; or

(E) any other injury to the body, no matter how temporary.

(Added Pub. L. 98-127, § 2, Oct. 13, 1983, 97 Stat. 831; amended Pub. L. 101-647, title XXXV, § 3544, Nov. 29, 1990, 104 Stat. 4926; Pub. L. 103-322, title XXXIII, § 330016(1)(L), (O), (Q), (S), Sept. 13, 1994, 108 Stat. 2147, 2148.)

CODIFICATION

Another section 1365 was renumbered section 1366 of this title.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-322, § 330016(1)(O), substituted “fined under this title” for “fined not more than \$25,000”.

Subsec. (a)(2), (3). Pub. L. 103-322, § 330016(1)(S), substituted “fined under this title” for “fined not more than \$100,000”.

Subsec. (a)(4). Pub. L. 103-322, § 330016(1)(Q), substituted “fined under this title” for “fined not more than \$50,000”.

Subsec. (b). Pub. L. 103-322, § 330016(1)(L), substituted “fined under this title” for “fined not more than \$10,000”.

Subsecs. (c)(1), (d), (e). Pub. L. 103-322, § 330016(1)(O), substituted “fined under this title” for “fined not more than \$25,000”.

1990—Subsec. (g)(1)(A). Pub. L. 101-647 inserted opening quotation marks before “device”.

SHORT TITLE

Section 1 of Pub. L. 98-127 provided: “That this Act [enacting this section and section 155A of Title 35, Patents] may be cited as the ‘Federal Anti-Tampering Act.’”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 37, 43, 113, 1153, 1347, 2119, 2261A, 2332b, 3559, 3663A of this title; title 8 section 1324.

§ 1366. Destruction of an energy facility

(a) Whoever knowingly and willfully damages or attempts to damage the property of an energy facility in an amount that in fact exceeds or would if the attempted offense had been completed have exceeded \$100,000, or damages or attempts to damage the property of an energy facility in any amount and causes or attempts to cause a significant interruption or impairment of a function of an energy facility, shall be punishable by a fine under this title or imprisonment for not more than ten years, or both.

(b) Whoever knowingly and willfully damages or attempts to damage the property of an energy facility in an amount that in fact exceeds or would if the attempted offense had been completed have exceeded \$5,000 shall be punishable by a fine under this title, or imprisonment for not more than five years, or both.

(c) For purposes of this section, the term “energy facility” means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning, except a facility subject to the jurisdiction, administration, or in the custody of the Nuclear Regulatory Commission or an interstate gas pipeline facility as defined in section 60101 of title 49.

(Added Pub. L. 98-473, title II, § 1011(a), Oct. 12, 1984, 98 Stat. 2141, § 1365; renumbered § 1366, Pub. L. 99-646, § 29(a), Nov. 10, 1986, 100 Stat. 3598; amended Pub. L. 101-647, title XXXV, §§ 3545, 3546, Nov. 29, 1990, 104 Stat. 4926; Pub. L. 103-272, § 5(e)(9), July 5, 1994, 108 Stat. 1374; Pub. L. 103-322, title XXXII, § 320903(d)(3), title XXXIII, § 330016(2)(C), Sept. 13, 1994, 108 Stat. 2125, 2148.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322, § 330016(2)(C), substituted “fine under this title” for “fine of not more than \$50,000”.

Pub. L. 103-322, § 320903(d)(3), inserted “or attempts to damage” after “damages” in two places, “or would if the attempted offense had been completed have exceeded” after “exceeds”, and “or attempts to cause” after “causes”.

Subsec. (b). Pub. L. 103-322, § 330016(2)(C), substituted “fine under this title” for “fine of not more than \$25,000”.

Pub. L. 103-322, § 320903(d)(3)(A), (C), inserted “or attempts to damage” after “damages” and “or would if the attempted offense had been completed have exceeded” after “exceeds”.

Subsec. (c). Pub. L. 103-272 substituted “an interstate gas pipeline facility as defined in section 60101 of title 49” for “interstate transmission facilities, as defined in section 2 of the Natural Gas Pipeline Safety Act of 1968”.

1990—Subsec. (c). Pub. L. 101-647, § 3545, substituted “section 2 of the Natural Gas Pipeline Safety Act of 1968” for “49 U.S.C. 1671”.

Subsec. (d). Pub. L. 101-647, § 3546, struck out subsec. (d) which read as follows: “The table of contents for chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following new item: ‘1365 Destruction of an energy facility.’”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2332b, 2339A, 2516 of this title.

§ 1367. Interference with the operation of a satellite

(a) Whoever, without the authority of the satellite operator, intentionally or maliciously interferes with the authorized operation of a communications or weather satellite or obstructs or hinders any satellite transmission shall be fined in accordance with this title or imprisoned not more than ten years or both.

(b) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States.

(Added Pub. L. 99-508, title III, § 303(a), Oct. 21, 1986, 100 Stat. 1872.)

EFFECTIVE DATE

Section effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 302 of Pub. L. 99-508, set out as a note under section 3121 of this title.

CHAPTER 67—MILITARY AND NAVY

Sec.	
1381.	Enticing desertion and harboring deserters.
1382.	Entering military, naval, or Coast Guard property.
[1383.	Repealed.]
1384.	Prostitution near military and naval establishments.
1385.	Use of Army and Air Force as posse comitatus.
1386.	Keys and keyways used in security applications by the Department of Defense.

AMENDMENTS

1991—Pub. L. 102-190, div. A, title X, § 1090(b), Dec. 5, 1991, 105 Stat. 1486, added item 1386.